

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal Case No. 22-mj-1022 (JTS)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	DEFENDANT'S MOTION FOR
)	REVOCATION, AND OBJECTION
vs.)	TO AND REQUEST FOR REVIEW
)	OF DETENTION
RIVER WILLIAM SMITH,)	
)	
Defendant.)	

PLEASE TAKE NOTICE that Defendant River William Smith, through undersigned counsel, hereby moves to revoke and objects to the Magistrate Judge's ruling on December 20, 2022 that Mr. Smith be detained, which is not supported by any written order. Mr. Smith requests that a District Court Judge immediately review Mr. Smith's detention and order his release due to failure to follow statutory requirements. The motion is made pursuant to 18 U.S.C. §3145(b), and Mr. Smith requests a de novo review. United States v. Cisneros, 328 F.3d 610, 616 (10th Cir. 2003); United States v. Doby, 928 F.3d 1199, 1202 (10th Cir. 2019); United States v. Maull, 773 F.2d 1479, 1481 (8th Cir. 1985); United States v. Villatoro-Ventura, 330 F. Supp. 3d 1118, 1123 (N.D. Iowa 2018). In the alternative, an objection and request for review is made pursuant to LR 72.2(a) and 28 U.S.C. § 636(b)(1).

At the conclusion of the hearing on December 20, 2022, Magistrate Judge Elizabeth Cowen Wright orally ruled that Mr. Smith should be detained during these proceedings pursuant to 18 U.S.C. § 3142. To date - nine days after the hearing, the

Magistrate Judge has not issued any written findings of fact and a written statement of reasons for the detention as required by 18 U.S.C. § 3142(i)(1). United States v. Salerno, 481 U.S. 739, 752, 107 S. Ct. 2095, 2104, 95 L. Ed. 2d 697 (1987)("the judicial officer must include written findings of fact and a written statement of reasons for a decision to detain. § 3142(i)"); Mauell, 773 F.2d at 1482. The failure to follow these required statutory procedures renders Mr. Smith's detention invalid, and therefore requires his release.

In the event that the district court considers the detention on the merits, it should conduct a new hearing and examine the evidence firsthand in light of the Magistrate's failure to timely issue written findings and conclusions. Even if review is based on evidence at the previous hearing, the detention must be revoked because the government failed to produce reliable evidence to support a conclusion by clear and convincing evidence that Mr. Smith presents a danger to the community. The record established that he has no criminal record and no history of violence. The magistrate judge erroneously accepted double or triple hearsay statements which were reportedly snippets of conversations without any further context that insinuated that Mr. Smith approved of violence or planned to engage in a violent confrontation with police. This was insufficient to meet the government's burden of proof.¹

¹ Mr. Smith reserves the right to submit further briefing when the transcript of the hearing is completed, if the Court determines that consideration of evidence at the hearing is appropriate notwithstanding the Magistrate's failure to issue written findings and conclusions.

For the foregoing reasons, Mr. Smith respectfully requests prompt review and action on this motion, which should consist of summarily overturning Mr. Smith detention and ordering his release, or in the alternative, immediately conducting a new hearing.

Dated: December 29, 2022

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